

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

April 24, 2014

BY ELECTRONIC MAIL

Willard F. Potter
Project Coordinator
de maximis, inc.
186 Center Street
Suite 290
Clinton, NJ 08809

Re: Monthly Progress Report No. 83 – March 2014

Dear Mr. Potter:

Thank you for providing the Lower Passaic River Study Area (“LPRSA”) Remedial Investigation/Feasibility Study (“RI/FS”) Progress Report No. 83 for March 2014. The U.S. Environmental Protection Agency (“EPA”) is hereby providing comments on Progress Report No. 83. To resolve the discrepancies discussed herein, I ask that this letter is referenced in Progress Report No. 84 and revisions are made to future progress report submittals.

Under section (a), the Cooperating Parties Group (“CPG”) did not include the March 12, 2014 receipt of the EPA provided modeling code material in the correspondence list. EPA provided the 4 terabyte (“TB”) drive, which has the hydrodynamic and sediment transport code, inputs and outputs on it, the 2 TB drive, which has the carbon and date and transport model codes, with the inputs and outputs on it. EPA provided the drives in response to the CPG’s request for updated model information, outlined in letters to EPA dated December 20, 2013 and January 3, 2014. de maximis acknowledged receipt of the March 12, 2014 material, in an email back to EPA that same day. This omission was compounded in the first bullet under section (d), on page 5-6, by the inclusion of the statement that this information had not been received. As that statement is not correct, please account for the inaccuracy and revise accordingly in Progress Report No. 84.

In our review of section (d), it was recognized that the CPG is providing information that is considered outdated and/or extraneous. Inclusion of outdated and extraneous information diverts attentions from issues that may be in immediate need of resolution or productive discussions. For example, while the CPG may have legitimate disagreements and concerns relating to the modeling, reiterating objections dating to 2012 in the March 2014 Progress Report is not needed. In addition, there is discussion of modeling coordination meetings that occurred in 2012 and 2013, yet there is no discussion of the more recent sets of meetings, which has the effect of being both outdated and misleading.

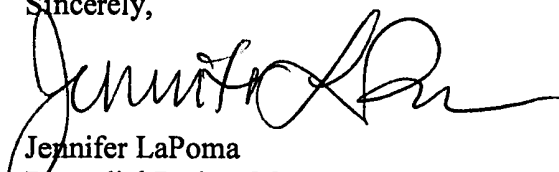
Please revise the third bullet of section (d) on page 7, addressing the CSO/SWO sampling. The first paragraph in the third bullet references in great detail a series of events that occurred over two years ago. As this information has been captured in contemporaneous progress reports its inclusion is not necessary. Reference in past progress reports should be sufficient either to call EPA's attention to the issue or to preserve the objections for the record. Similarly, the CPG has already advised EPA, in numerous letters, of its dissatisfaction with the fact that Tierra Solutions, Inc. (Tierra), has not paid for the sampling in Newark Bay conducted by the CPG's contractor under the separate agreement that the CPG and Tierra. EPA does not agree that this dispute should affect the schedule for the LPRSA RI/FS.

In section (d) on page 8 through 9, the second paragraph of the third bullet, the CPG notes that the EPA's position on background and reference had changed from its earlier position. In an email dated March 26, 2014, I asked that if there is any further clarification needed or any outstanding questions regarding background and reference to please let me know. Additionally, I stated that Chuck Nace, Marc Greenberg, and I could be available for a call to discuss, if requested. To date, no one from de maximis has contacted me to discuss this further. If adjustments related to background and reference in the Baseline Ecological Risk Assessment ("BERA") are needed based on EPA's review and analysis, those can be addressed in EPA's comments back to CPG on the BERA. Please provide EPA with the Human Health Risk Assessment and BERA submissions.

In future progress report submittals by de maximis for the 17-mile study or the River Mile 10.9 removal, EPA suggests section (d) address more recent occurrences that could cause problems or delay and be edited to eliminate much of the background information that is not necessary to reiterate in every monthly report.

Please let me know you if you would like to discuss any of EPA's comments on Progress Report No. 83 further.

Sincerely,



Jennifer LaPoma
Remedial Project Manager

Cc: Robert Law, de maximis, inc.
Ray Basso, EPA
Sarah Flanagan, EPA
Patricia Hick, EPA